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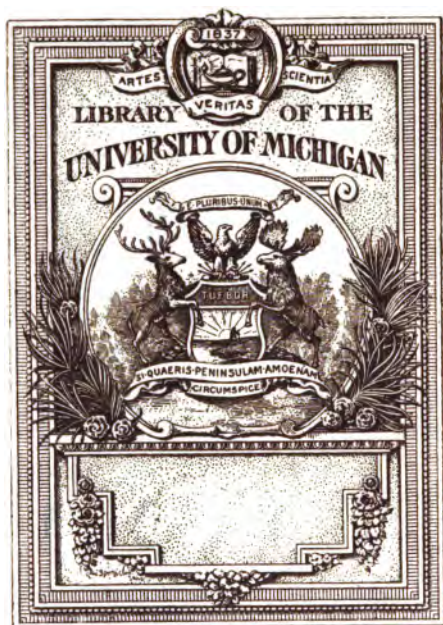
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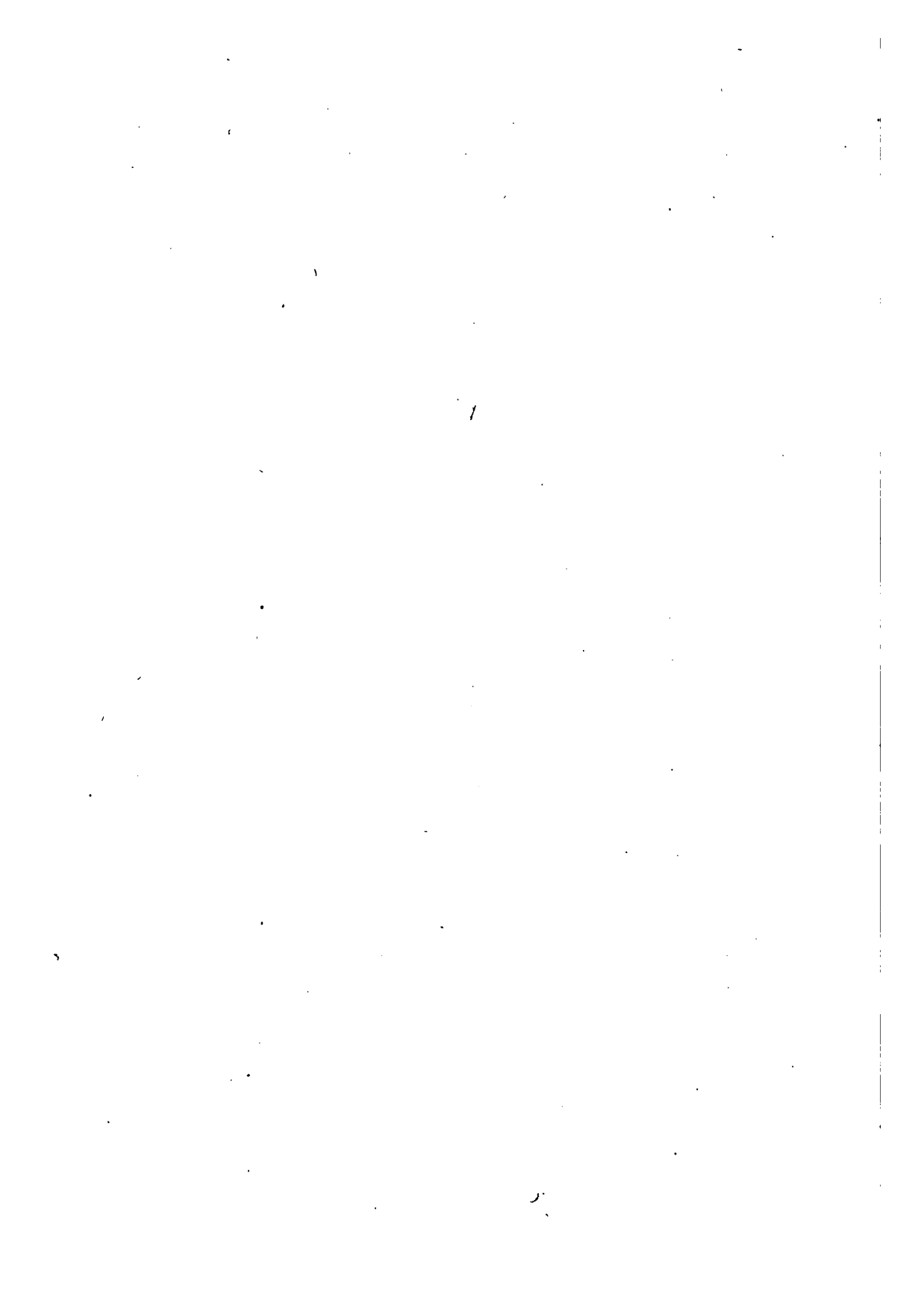
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California. Sect. of State

Election officers' digest.



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ELECTION OFFICERS' DIGEST

Prepared by the
Secretary of State and the Attorney General



CALIFORNIA
STATE PRINTING OFFICE
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INTRODUCTION.

This brief digest of the election laws of the State of California, in so far as those laws affect the duties of election officers during the casting and canvassing of the vote, has been prepared by the Secretary of State and the Attorney General, pursuant to the provisions of section 1142a of the Political Code.

The compilers have endeavored to present the digest in such form as will readily indicate to the election officers the substance of such provisions of the Political Code and other election laws as they may find it most important to know in the performance of their duties. It contains wherever possible a reference to the code section or law by reference to which further examination may be made of the matter contained in any particular statement or provision. Its object is to furnish a guide to the election officers, and though it is in the main confined to the laws immediately affecting the powers and duties of such officers, it has been thought advisable to incorporate other matters incidentally related thereto to the end that this object might be more effectually attained.

It is to be understood that the digest relates only to the laws governing state, county and municipal elections and such other elections as are similarly conducted. No attempt has been made to state the law governing such elections as pertain only to school, district and other matters where the procedure differs entirely from the general procedure and as to which the particular provisions of special statutes control.

FRANK C. JORDAN,
Secretary of State.

U. S. WEBB,
Attorney General.

ELECTION OFFICERS.

An election officer is a person who has been duly appointed to take charge of, and conduct, an election in a particular precinct, and who has qualified by taking the oath required by law. The persons so appointed and qualified constitute the board of election for that precinct. They are designated and distinguished with reference to their duties by the official titles of "Inspector," "Judge," and "Clerk," the number of members on a board, as well as the number thereon occupying those respective positions, varying according to the character of the precinct in which they are to act, as herein-after stated.

Defined.

Board of Election.

The inspector is the chief officer of the board. When no inspector is present one of the judges should exercise the powers and perform the duties of an inspector.

Chief officer.

Formerly the board of election for an election precinct comprised only those persons officially designated as inspectors or as judges, and though provision was made for the appointment of ballot clerks, such clerks were not members of the board. But under the law as it now reads the election officers appointed at each election or primary election for each precinct constitute the board of election for that precinct, and each inspector, judge and clerk appointed as an election officer for a precinct is a member of the board for that precinct (Pol. Code, Sec. 1142).

Each officer a member.

Where a power is conferred upon, or a duty is assigned to, an officer of election without regard to his position on the board it may be exercised or performed by any member thereof. Where a power is conferred upon, or a duty is assigned to, the board as a body, the action of the board pursuant thereto must be with the consent of a majority of the board then acting.

Exercise of powers.

By sections 1142 and 1151 of the Political Code the inspector, judges and clerks are authorized to distribute among themselves the extra duties devolving upon the board, in addition to their own duties, in such manner as they themselves shall deem most advantageous, and such extra duties assigned to the several officers by other sections of the Political Code shall be performed by the members of the board as said duties have been so distributed by them among themselves. However, under the law, special authority has been conferred upon, and particular duties assigned to, the respective members by their official designation, and when so conferred or assigned should, where possible, be exercised or performed by the officer occupying that position.

Distribution of duties.

The members of a board of election are required to be appointed, at least twenty-five days prior to the election, by the board having charge or control of the election in the political subdivision in which such election is to be held (Pol.

When and by whom appointed.

Code, Sec. 1142). For a state or county election the appointing power is the board of supervisors, and for a municipal election the city council or board of trustees of the city, except in a city, county, or a city and county, having a charter, in which case the appointing power is in that board or officer in whom it is vested by the terms of such charter (Pol. Code, Secs. 1075, 1076).

When by
County
Clerk.

If the election officers for any precinct have not been designated by the fifteenth day prior to the election, the county clerk is required to appoint such officers (Pol. Code, Sec. 1142), and if they have not been designated by the tenth day prior to the election the justice of the peace having jurisdiction over the territory comprising such precinct is required to appoint such officers (Pol. Code, Sec. 1132).

When by
Justice of
the Peace.

When by
Inspector.

If the justice fails to perform the duty imposed upon him, the inspector, if one has been appointed, shall perform such duty (Pol. Code, Sec. 1132), but must do so before the time for opening the polls.

When by
electors at
the polls.

If those appointed on an election board, or any of them, do not attend at the opening of the polls on the morning of an election, those qualified electors of the precinct present at that hour, including members of the board, if any, shall appoint qualified electors of the precinct present to fill the vacancies, as the case may require (Pol. Code, Sec. 1132).

Regular
precincts.
For which
elections
established.

The election precincts at each general state election, August primary election and presidential primary election shall be the regular election precincts established pursuant to law by the proper officials.

Number
on board;
regular
precinct.

For each regular precinct a board of election consists of one inspector, two judges and three clerks, except that in any precinct in which the total registration does not exceed one hundred electors, the board consists of one inspector, one judge and two clerks (Pol. Code, Sec. 1142).

Special or
consolidated
precincts
For which
elections
established.

Special election or consolidated election precincts may be established for any election mentioned in section 1044 of the Political Code (Pol. Code, Sec. 1133).

Number
on board;
special or
consolidated
precincts.

When special election or consolidated election precincts have been established for any municipal election provided for in section 1044 of the Political Code, the board of election for each such precinct consists of two inspectors, two judges and two clerks. When special election or consolidated election precincts have been established for any other election provided for by section 1044 of the Political Code, the board of election for each such precinct consists of one inspector, one judge and two clerks (Pol. Code, Sec. 1151).

What
elections are
provided for
by Pol. Code,
Sec. 1044.

The elections provided for in section 1044 of the Political Code are all municipal elections, where the same are held separate from state elections, all elections to elect boards of freeholders, or to vote upon proposed charters, or upon amendments to existing charters, and all other special elections,

including all special elections to vote upon or for or against any proposition or question authorized to be submitted to a vote (Pol. Code, Sec. 1044).

No person is eligible to act as an officer of election at any precinct who is not actually a resident of that precinct and a registered and qualified elector thereof, or who has within ninety days preceding such election been employed in any capacity, other than that of an election officer, by any county, or city and county, or incorporated city or town in which he resides; nor is any person eligible to act as a member of any election board who can not read and write the English language (Pol. Code, Sec. 1142).

Qualifications of members.

Each member upon a board of election in any county, or city and county, shall receive as compensation for his services a sum not to exceed ten dollars, to be paid by the county, or city and county, in which he acts (Pol. Code, Sec. 1072).

Compensation.

When, however, a person acts as an election officer at a municipal election he is to be paid by that municipality such compensation as its governing body shall determine.

The officers for primary elections shall be the same, and shall be appointed in the same manner, and shall receive the same compensation, as provided by law for general elections (Direct Prim. Law, Sec. 16, Pres. Prim. Act, Sec. 9).

For primary elections, officers how appointed.

It is a misdemeanor for any person who can not read and write the English language to act as a member of an election board, or for any person, who is otherwise eligible, to refuse to act upon such board after proper notification of his appointment, unless good and sufficient cause for such refusal is shown to the election board or board of supervisors (Pen. Code, Sec. 49a), or for any person, who has agreed to serve and has been regularly appointed as an election officer, to fail to act as such without lawful excuse (Pol. Code, Sec. 1142).

Penalties.

It is a felony to act as an election officer at any election without first having been appointed and qualified as such, or, not being an election officer, to perform any of the duties of an election officer, in regard to the handling or counting or canvassing of any ballots cast at any election (Pen. Code, Sec. 40).

Every person charged with the performance of any duty, under any law of this State relating to elections, who wilfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any such law, is, unless a different punishment is prescribed therefor by the Penal Code, punishable by a fine, or by imprisonment in the state prison, or by both (Pen. Code, Sec. 41).

It is a misdemeanor for any person to assign or in any manner transfer the compensation which he will receive or be entitled to receive, or to have allowed to him, for service as an election officer, until after the election is fully completed at his precinct, or until after the election returns from such precinct have been sealed and delivered to the county clerk, registrar of voters, postmaster, express agent, or other proper person authorized by law (Pol. Code, Sec. 1072a).

DUTIES OF ELECTION OFFICERS BEFORE OPENING POLLS.

Notice of appointment. Each person appointed an election officer should have received prior to the election a copy of this digest (Pol. Code, Sec. 1142a), and a notice of his appointment, designating therein the polling place at which he is to act (Pol. Code, Sec. 1142).

Prior duties of Inspector. The person appointed inspector should also have received a notice in duplicate stating the name and address of each of the other persons appointed for the same precinct and their respective positions on the board, and he should have caused one of these notices to have been posted at or near the polling place designated therein within five days after receipt thereof (Pol. Code, Sec. 1142).

Inspector's oath. An oath in blank should have accompanied the notice, which should then have been immediately sworn to by the inspector and be subsequently returned with the election returns (Pol. Code, Sec. 1142).

The inspector should likewise have received and posted a notice containing the names of the election officers for each precinct and the polling places therein (Pol. Code, Sec. 1131).

Time to be at polling place. Each person appointed an election officer shall be at the polling place where he is to act not later than 5:45 a.m. on election day. The persons who are to act as officers at a polling place may be ascertained from the notice previously posted thereat by the inspector, but if for any reason that notice or the duplicate thereof is not available those claiming the right to act should exhibit to each other their respective notices of appointment.

How ascertain other members. Before the day of election there will be delivered to one of the persons appointed on the board of election for a precinct a book of affidavits of registration for that precinct, together with five copies of the index to said book (Pol. Code, Sec. 1116), prepared and bound by the county clerk or registrar of voters.

Affidavits of registration and index. Whenever the term "register" or "great register" is used herein or in any law of this State relating to elections, there is meant thereby the relative and proper affidavits of registration, or both thereof, prepared and bound by the county clerk or registrar of voters (Pol. Code, Sec. 1094).

"Register" and "Great Register" defined. At any election held in an even numbered year before the first day of April of that year this book of affidavits of registration, and indexes thereto, shall consist of the original affidavits of registration, and indexes thereto, used in the last general November election in the previous even numbered year together with the original affidavits of registration, and supplemental indexes thereto, showing all additional registrations, changes and corrections made since the registration for said last general election closed and completed to and including the thirty-first day prior to the election then being held (Pol. Code, Sec. 1094).

Elections prior to April 1st, what register used.

At any election held on or after the first day of April of an even numbered year, whether held in that year or in the following odd numbered year, this book of affidavits of registration, and indexes thereto, shall consist of the original affidavits of registration, with all changes and corrections thereof, made on or subsequent to the first day of January of said even numbered year and prior to the thirtieth day before the election then being held, and the indexes thereto (Pol. Code, Sec. 1094).

Elections on or after April 1st, what register used.

**Elections
on or after
April 1st,
what register
used.**

The register which shall be used in a special election or consolidated election precinct at an election provided for in section 1044 of the Political Code shall be that hereinabove stated, having reference to the date of election and the fact that the precinct is a special election or consolidated election precinct and not a regular precinct (Pol. Code, Sec. 1121).

In special election and consolidated election precincts, what register used.

Before the day of election or before the opening of the polls there will be delivered to one of the persons appointed on the board of election for a precinct, or at the polling place, the necessary supplies for conducting the election in that precinct which will include among other things printed blanks for poll lists, tally lists, lists of voters, oaths, and returns, together with envelopes in which to inclose such returns (Pol. Code, Sec. 1073), a ballot box, ink pads and ink, stamps with a cross (X) at each end, pencils, pens, blotting paper and other proper supplies, a list of which will be enclosed therewith (Pol. Code, Sec. 1203). And whenever any constitutional amendments, propositions, measures or questions are to be submitted at such election to a vote of the electors of the State there will also be supplied to each polling place three copies of the pamphlet published by the Secretary of State relating to such matters, which shall be so kept that they may be freely consulted by the electors while the election is in progress (Pol. Code, Sec. 1195b).

**Election
supplies.**

Before the opening of the polls there should be delivered at the polling place sealed packages containing the tickets or ballots to be used. The inspector should sign the receipt accompanying these packages and forthwith return such receipt to the county clerk or other official from whom they were received (Pol. Code, Sec. 1201).

Blank
ballots and
instruction
cards.
Receipt
therefor.

At the same time there should be delivered at the polling place twelve cards containing instructions for the guidance of electors (Pol. Code, Sec. 1210).

If the inspector is not present the receipt should be signed by one of the judges, and if neither is present further proceedings should await the presence or appointment of one of such officers (Pol. Code, Sec. 1201).

In case the ballots or supplies have not arrived in proper time the officers present should immediately communicate with the county clerk or other official from whom they should have been received.

In case of the prevention of an election in any precinct by the loss or destruction of the ballots intended for that precinct, the inspector, or other election officer for that precinct, shall make an affidavit setting forth the fact, swear to the same before an officer authorized to administer oaths and transmit it to the Governor (Pol. Code, Sec. 1201).

Oaths.

If the inspector is present and has not previously taken and subscribed the oath upon the blank sent him for that purpose, he should immediately do so before any elector of the township (Pol. Code, Sec. 1148). If he has not such blank with him he should take and subscribe the oath for an inspector set forth in the front of the poll list which will be found among the supplies. He should then see that each of the other persons appointed an election officer for that polling place, before performing any duties, takes and subscribes before him the appropriate oath set forth in the front of the poll list. In case the person appointed inspector is not present, each of the persons appointed shall take and subscribe such oath before any other of themselves (Pol. Code, Sec. 1142).

Oath before performing duties.

Each election officer must take and subscribe the required oath before entering upon his duties (Pol. Code, Sec. 1142).

Who may administer oath.

Any member of the board may administer and certify oaths required to be administered during the progress of the election (Pol. Code, Sec. 1146).

Arrangement of polling place.

Such officers as have been sworn shall immediately proceed to arrange the polling place for the orderly and legal conduct of the election.

Post indexes to affidavits of registration.

They shall before the opening of the polls post in separate convenient places at or near the polling place and easy of access to the electors not less than four of the copies of the index to the book of affidavits of registration furnished for that precinct (Pol. Code, Sec. 1149), and these copies must be kept so posted during the whole time of voting, and must not in any manner be torn or defaced (Pol. Code, Sec. 1150).

Post cards of instructions.

They shall place at least one card of instructions to voters in each voting booth and not less than three of such cards at other places in and about the polling place (Pol. Code, Sec. 1210), and in each booth an ink pad and a voting stamp (X), and they shall especially see that the stamp and ink pad required are at all times during the voting kept in such booths and in condition for proper use (Pol. Code, Sec. 1203).

Put stamps and ink pads in booths.

Roster.

At a table, immediately inside of the guard-rail separating the voting inclosure from the rest of the polling place, and convenient for those desiring to vote, there shall be placed the roster, which consists of blank sheets of paper bound together with numbered lines for the signatures of electors desiring to vote. At the head of such roster, if not already stated, one of the officers shall designate in writing the election and date thereof, and the number or name of the precinct. Pen, ink and a blotter shall be placed beside the roster.

Nearby, so that the signature on the roster may be compared with that on the affidavit of registration, shall be placed the book of affidavits of registration, and an index thereto, which shall be in the care of one of the clerks (Pol. Code, Sec. 1204). Book of affidavits of registration.

Close at hand shall be the two poll lists, which consist respectively of blank sheets of paper bound together with numbered lines upon which two of the clerks, each taking charge of one list, shall enter the name of each person who votes in the order of voting so that the number in such order corresponds to the number of the line (Pol. Code, Sec. 1229). At the head of these poll lists, if not already stated, one of the officers shall designate in writing the election and date thereof, and the number or name of the precinct. Poll lists.

When the precinct is a special election or consolidated election precinct or when the election is one provided for by section 1044 of the Political Code but one poll list need be kept (Pol. Code, Sec. 1151).

The stub-books or pads of ballots shall be put in the charge of one or more of the officers and a ballot shall be detached therefrom only when it is to be delivered to an elector to vote. The number of ballots so delivered to such officers shall be noted and such number accounted for upon the closing of the polls, as hereinafter stated (Pol. Code, Sec. 1207). Ballots.

The ballot-box shall be in the charge of the inspector when he is present, and when he is absent one of the other officers should take charge thereof. Ballot box.

All other supplies not in immediate use should be carefully preserved for use when needed either during the progress of the election or upon canvassing the vote and making return thereof.

If for any reason the polling place designated can not be used, the board of election acting for that precinct on election day shall designate another polling place as near thereto as possible, post notice of the change on or near the place first designated and remove all election supplies to and conduct the election at the place last designated (Pol. Code, Sec. 1132). In such case the new polling place shall be arranged as provided in section 1203 of the Political Code for the arrangement of polling places. Change of polling place.

In no event shall the polling place be a saloon or other place where intoxicating liquor is sold or dispensed, nor shall it be connected by a door, window or other opening with a saloon or other room or place where such liquor is sold or dispensed (Pol. Code, Sec. 1131).

OPENING OF THE POLLS.

At all elections, state, county or municipal, general, special or primary, the polls must be opened at six o'clock a.m. on the day of election and must be kept open until seven o'clock p.m. of the same day, when they shall be closed, except for the purpose, as hereinafter stated, of permitting those present to vote (Pol. Code, Secs. 1160 and 1164). Time of opening polls.

Procla-
mation.

Before receiving any ballots to be voted, the board of election shall cause it to be proclaimed aloud at the polling place by one of its members that the polls are open (Pol. Code, Sec. 1163).

Ballot box.

Before any ballots are received to be voted, the board shall, in the presence of any persons assembled at the polling place, open and exhibit and close the ballot box; and thereafter it shall not be opened until the polls are finally closed, nor shall it be removed from the polling place or from the presence of the bystanders until all the ballots are counted (Pol. Code, Sec. 1162).

OCCUPATION OF BOOTHS AND POLLS.

No person other than electors engaged in receiving, preparing or depositing their ballots, shall be permitted within the rail in front of the ballot box before the closing of the polls, except by authority of the board of election, and then only for the purpose of keeping order and enforcing the law (Pol. Code, Sec. 1203).

Officers
must be
present
at polls.

Not more than two members of the board shall be absent from the polling place at any one time, and all must be present at the closing of the polls (Pol. Code, Sec. 1142); provided, however, that at the May presidential primary election (Presidential Primary Act, Sec. 9), at the August primary election and at any other primary election held under the provisions of the Direct Primary Law, no more than one member of the board shall at any time be absent from the polling place (Direct Primary Law, Sec. 20).

While a member is absent his duties should be performed by one of the other members to be designated by the inspector, or, in his absence, by the board.

Officer
ceasing to
act, another
to be
appointed.

If during the progress of the election any judge or clerk ceases to act or becomes incapacitated from acting the inspector should appoint another person to act as such judge or clerk as the case may require (Pol. Code, Sec. 1145), but if the cessation or incapacity is merely temporary the duties of the absent member should be performed by one of the other members to be designated by the inspector, or, in his absence, by the board. If the inspector ceases to act or becomes incapacitated the remaining members of the board shall designate one of their number to perform the duties until the vacancy is filled.

No adjourn-
ment or
intermission.

No adjournment or intermission whatever shall take place until all votes cast at the polling place are counted and the result publicly announced thereat, but this shall not be deemed to prevent the temporary absence of a member while eating or doing any other necessary act.

VOTING.

Voting may commence as soon as the polls are opened and may be continued during all the time they remain open (Pol. Code, Sec. 1224). When may commence.

Only those persons may vote who possess the qualifications prescribed for an elector by section 1 of article II of the state constitution, and who have registered on or before the thirty-first day prior to the election then being held. Who may vote.

Whenever the term "qualified elector" is used herein or in any law of this State relating to elections, there is meant thereby one who possesses the constitutional qualifications. "Qualified elector" defined.

These qualifications are hereafter dealt with separately in this digest under the headings "Qualification of Voters" and "Challenge."

Whether a person claiming the right to vote has registered shall be determined, in the manner hereinafter stated, by one of the election officers from the affidavits of registration, and indexes thereto, furnished by the county clerk or registrar of voters for use at the particular precinct.

Any person desiring to vote shall write his or her name and address (or if he or she be unable to write, shall have the same written for him or her) on the roster of voters provided for that purpose, and announce the same to one of the election officers, who shall then in an audible tone of voice announce the same, and, if the election officer having charge of the affidavits of registration finds the name of that person on one of these affidavits as signer thereof, he shall in a like manner repeat the name and address, whereupon a challenge may be interposed as provided in section 1230 of the Political Code (Pol. Code, Sec. 1204). Elector shall sign roster.

The subject of challenge is hereafter dealt with separately in this digest under the heading of "Challenge." Challenge (See discussion hereafter).

In case the surname of any female person offering to vote has been changed by reason of marriage or divorce since registration, such person shall sign her name as it was before such marriage or divorce and also her name as it is at the time she votes, indicating on the roster by brackets or other means, that the two names are the names of one person (Pol. Code, Sec. 1204). When female voter has changed name.

At all elections (other than an August primary election or a municipal primary election under the Direct Primary Law of 1913, if the amendments thereto of 1916 do not become effective as hereinafter noted) an elector otherwise qualified to vote is entitled to vote without regard to the name of the political party, if any, designated on his affidavit of registration, and irrespective of the fact that when registering he failed or declined to state any political affiliation. Party affiliation, when not material.

May
presidential
primary.
Party
affiliation
must be
stated on
roster.

At the May presidential primary election any person desiring to vote shall, on writing his name or having it written for him on the roster, likewise write or have written for him on the roster, the name of the political party with which he intends to affiliate in voting for candidates for office at the next ensuing November election. He shall then, in an audible tone of voice, declare to the election officer from whom he receives his ballot the name of such political party, and the clerk whose duty it is to write the name of the elector on the poll list shall also write opposite such name the name of said political party. Thereupon said elector (provided he is otherwise qualified to vote, and has not been challenged, or, if challenged, the challenge has been overruled) shall be given the ticket of that political party only and he shall be permitted to vote the same (Presidential Primary Act, Sec. 6).

At May
presidential
primary not
material
what party
affiliation
was stated
when
registering.

At the May presidential primary election an elector otherwise qualified to vote is entitled to vote the ticket of that political party the name of which he has at said election written on the roster and declared as aforesaid, notwithstanding the fact that his affidavit of registration contains the name of the same or a different political party or does not contain the name of any political party, and notwithstanding the fact that when registering he failed or declined to state the name of any political party with which he intended to affiliate.

August or
municipal
primary
under direct
primary
law of 1913.
Ballot
delivered to
elector
depends on
statement
as to party
affiliation
when
registering.

At an August primary election held under the provisions of the Direct Primary Law, approved June 16, 1913, and at any primary election held under the provisions of that law to nominate candidates for municipal officers, any person desiring to vote shall, on writing his name, or having it written for him, on the roster (and provided he is otherwise qualified to vote, and has not been challenged, or, if challenged, the challenge has been overruled), receive the official primary election ballot of the political party designated in his affidavit of registration (or the nonpartisan ballot, provided no such party was so designated), and no other.

Note as to
operation
of direct
primary law
and
referendum
thereon.

NOTE.—The Direct Primary Law of 1913 was amended at the extra session of the legislature in 1916 by an act approved January 11, 1916. That act will become effective on April 11, 1916, unless it is suspended by the filing with the Secretary of State on or before April 10, 1916, of a referendum petition signed by a sufficient number of qualified electors. At the time this digest is compiled it is impossible to state whether such act will or will not become effective. If that act is suspended no attention should be paid to the matter hereinafter stated as to the procedure at elections held under the Direct Primary Law as amended January 11, 1916, unless hereafter such act is approved at an election at which it is submitted to the electors. If no such referendum petition is filed, the act of January 11, 1916, will be effective on April 11, 1916, and in that event at any election thereafter held under the Direct Primary Law the procedure will be as hereinafter next stated.

August or
municipal
primary
under direct
primary law
as amended
in 1916.
Party
affiliation
must be
stated on
roster.

At an August primary election held under the provisions of the Direct Primary Law approved January 11, 1916, and at any municipal primary election held under the provisions of said law as so amended to nominate candidates for municipal offices, any person desiring to vote shall, on writing his name or having it written for him on the roster, likewise write or have written on the roster the name of the

political party with which he intends to affiliate in voting for candidates for office at the next ensuing November election. He shall then, in an audible tone of voice, declare to the election officer from whom he receives his ballot the name of such political party, and the clerk whose duty it is to write the name of the elector on the poll list, shall also write opposite such name the name of said political party. At such August primary election, and at such municipal primary election, the officer having charge of the ballots, before giving the elector his ballot shall write with ink, or, with a stamp provided for the purpose, stamp the word "Cancelled" across the tops of the party columns, and shall draw a blue pencil line down the middle of such columns, which are headed by the names of all the political parties except that with which the elector thus declares his intention to affiliate, and the elector (provided he is otherwise qualified to vote and has not been challenged, or, if challenged, the challenge has been overruled), shall then be given such ballot and shall be entitled to vote only for candidates for nomination to offices printed or written in under the name of such party as is not thus marked "Cancelled," and for candidates for nomination to offices printed or written in the columns under the heading "Nonpartisan Offices." If the voter does not express a desire to affiliate with any party, he need not write or declare, or have written for him the name of any political party, and in such case the election officer shall write or stamp the word "Cancelled" and draw the blue line across the names of all candidates for nomination to office in the party columns, and the elector (provided he is otherwise qualified to vote and has not been challenged, or, if challenged, the challenge has been overruled) shall then be given such ballot and shall not be entitled to vote for any such party candidates, but may vote for candidates for nomination to offices printed or written in the columns under the heading "Nonpartisan officers" (Direct Primary Law, Sec. 17, as amended Jan. 11, 1916).

At any such August primary election held under the provisions of the Direct Primary Law as amended by the act approved January 11, 1916, and at any such municipal primary election held under the provisions of said law as so amended to nominate candidates for municipal offices, an elector otherwise qualified to vote is entitled to vote the ticket of that political party the name of which he has at said election written on the roster and declared as aforesaid, notwithstanding the fact that his affidavit of registration contains the name of the same or a different political party, or does not contain the name of any political party, and notwithstanding the fact that when registering he failed or declined to state the name of any political party with which he intended to affiliate. But at any such election the right of an elector to vote the ticket of the party the name of which he has written on the roster may be challenged upon the ground that he has previously

At August or municipal primary under direct primary law as amended in 1916 not material what party affiliation was stated when registering, but elector may be challenged if he has signed nomination paper of candidate of another party.

declared his intention to affiliate with another political party at such primary election, such declaration having been expressed in the nomination paper of a candidate of such other party which he signed; and if such challenge is allowed the elector shall not be permitted to vote the ticket of the party the name of which he first wrote upon the roster (Direct Primary Law, Sec. 16, as amended Jan. 11, 1916). In such case, however, the elector if otherwise qualified, may write on the roster the name of another political party and declare his intention with respect thereto as previously, and shall then, if not challenged, be allowed to vote the ticket of that party so last written and declared.

Signature on roster to be compared with signature on affidavit of registration.

In all cases, except in those where the name and address of the voter is written on the roster for him as above provided, the election officer having charge of the affidavits of registration shall, in the presence and view of the bystanders, compare the signature of the voter on the roster with the signature of the person on the affidavit of registration and no ticket shall be given such voter until such comparison has been made as aforesaid, and until so made the right of a voter to vote may be challenged (Pol. Code, Sec. 1204).

Challenge.

In no case shall the elector be given a ticket or ballot until the challenge, if any, which may have been interposed, shall have been overruled by the board. If the challenge is allowed the elector shall be denied the right to vote and shall withdraw.

Challenge hereafter discussed.

The matter of challenge is hereafter separately stated in this digest under the heading "Challenge."

Challenge overruled. Elector to be given ballot.

If the challenge is overruled, the election officer having charge of the ballots shall detach one of the ballots from the stub-book or pad of ballots, stating aloud the number thereof, and give such ballot to the voter, and the officer having charge of the affidavits of registration shall write on the affidavit of registration of that particular voter opposite his name the number of the ticket given him (also the number of the municipal ticket, if any, given him when any city, city and county, or town officer is to be elected at that election). (Pol. Code, Sec. 1204.)

Elector to be instructed to mark ballots with stamp.

In order to prevent voters from marking their ballots with a pencil or otherwise contrary to law, the election officer shall, whenever he delivers a ballot to any voter, then orally distinctly state to him, so that it may be heard by the bystanders, that he must mark the ballot with the stamp provided by law, or it will not be counted (Pol. Code, Sec. 1204).

Elector to enter booth.

On receiving his ballot the elector shall be allowed to enter the place enclosed by the guard-rail (Pol. Code, Sec. 1204). and he shall forthwith, and without leaving the enclosed space, retire alone to one of the booths provided therefor and prepare his ballot (Pol. Code, Sec. 1205).

Ten minutes only in booth.

No more than one person shall be permitted to occupy any one booth at one time and no person shall remain in or occupy a booth longer than necessary to prepare his ballot, and in no event longer than ten minutes (Pol. Code, Sec. 1206).

Unless otherwise provided by law no person shall apply for or receive any ballot at any election precinct other than that in which he is entitled to vote (Pol. Code, Sec. 1215).

Elector to receive ballot only in his own precinct.

Unless otherwise provided by law no voter shall receive a ballot from any other person than one of the election officers, nor shall any other person than an election officer, or other officer authorized by law so to do, deliver a ballot to such voter (Pol. Code, Sec. 1215).

No one but election officer to deliver ballot to elector.

In voting, the elector shall stamp a cross (X) in the voting square after the printed name of every candidate for whom he intends to vote, using only the stamp provided therefor.

How to stamp ballot.

When two or more candidates are to be elected to the same office the elector may stamp such cross after the names of as many candidates for that office as he desires to vote for, not exceeding the number to be elected thereto. If he stamps a cross opposite more names than are permitted, his ballot will not be void, but his vote for that office will not be counted (Pol. Code, Secs. 1205 and 1211, Direct Primary Law, Sec. 18).

When more than one to be elected to same office.

An elector may vote for a candidate or person whose name is not printed on the ballot by writing the name of such person with pen or pencil in the blank space left therefor. In that case it is immaterial whether he stamps a cross (X) opposite the name so written (Pol. Code, Sec. 1211).

When person's name is not printed on ballot.

When the names of several candidates are printed on the ballot in a group and an elector desires to vote for all in that group, he may do so by stamping a cross (X) in the voting square provided therefor to the right of such group. But if he desires to vote for only some of the group he should stamp a cross in the voting squares immediately after the names of the individuals for whom he desires to vote (Pol. Code, Sec. 1197).

When names appear in groups.

To vote upon any question, proposition or constitutional amendment, the voter shall stamp a cross (X) in the appropriate voting square after the word or words signifying the manner in which he desires to vote thereon (Pol. Code, Sec. 1197).

When question, proposition or amendment is to be voted on.

When the matter upon which the elector desires to vote is an act that has been suspended in its operation by referendum, he shall stamp a cross after the word "Yes," if he desires such act to become a law; otherwise he shall stamp a cross after the word "No" (Const. Art. IV, Sec. 1).

When it is an act suspended by referendum.

When the election is a recall election the voter may vote on the question of recall by stamping a cross after the word "Yes" or after the word "No." If he has done either he may also vote for a candidate whose name is printed on the ballot by stamping a cross after such name. He may at his option vote only on the question of recall, but if he does not vote either "Yes" or "No" his vote for any candidate will not be counted (Const. Art. XXIII, Sec. 1, and Pol. Code, Sec. 4021a).

When it is a recall election.

No identi-
fying marks
on ballot.

No voter shall place any mark upon his ballot by which it may be afterwards identified as the one voted by him (Pol. Code, Sec. 1215).

Elector shall
not reveal
contents of
ballot.

No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of any candidate for whom he has marked his ballot (Pol. Code, Sec. 1215).

Spoiled
ballots.

Any voter who shall spoil a ballot shall return the same to the ballot clerk and receive another one in its place, one at a time, not to exceed three in all. All the ballots thus returned shall be immediately cancelled and preserved until the closing of the polls, when they shall be defaced in the same manner as unused ballots, enclosed in an envelope and returned with the register, lists and ballots as hereinafter provided (Pol. Code, Sec. 1207).

Elector not
voting ballot
to return
same.

Every elector who does not vote the ballot delivered to him shall, before leaving the polling place, return such ballot to the ballot clerk having charge of the ballots, who shall immediately cancel the same and preserve and deface it and enclose it in an envelope and return it in the same manner as spoiled ballots (Pol. Code, Sec. 1207).

How to
fold ballot.

Before leaving the booth the elector shall fold his ballot in such a manner that the number of the ballot and the endorsement on the back shall appear on the outside thereof without displaying the marks on the face thereof, and he shall keep it folded until he has voted.

Elector shall
deliver his
ballot to
inspector.

After the ballot is folded the voter shall deliver it to the inspector, who shall announce in an audible tone of voice the name of the voter and the number of the ballot.

Officer shall
thereupon
write "voted"
on affidavit of
registration.

If the ballot clerk having in charge the affidavits of registration finds such number to correspond with the number marked opposite the voter's name on the affidavit of registration, he shall, in like manner, repeat the name and number, and shall write opposite the name the word "voted" (Pol. Code, Sec. 1205).

Two poll
lists; enter
voter's name
on each in
order of
voting.

There shall be two lists kept of the persons voting, called the poll lists, and in each of these poll lists a clerk shall thereupon enter the name of the person voting, numbering the same in the order of voting (Pol. Code, Sec. 1229).

Detach
number
from ballot,
deposit
ballot
and destroy
number.

The inspector, or officer having charge of the ballot box, shall then separate the slip containing the number from the ballot, deposit the ballot in the box and immediately destroy such slip (Pol. Code, Sec. 1205).

Ballot not
to be
deposited in
box until
slip is
removed by
officer.

No member of the board of election shall deposit in the ballot box any ballot from which the slip containing the number of the ballot has not been removed by the inspector or officer having charge of the ballot box (Pol. Code, Sec. 1209).

At any election provided for by section 1044 of the Political Code but one poll list need be kept (Pol. Code, Sec. 1151).

When only one poll list kept.

At the presidential primary election the clerk keeping the poll list shall also write thereon opposite the name of the voter the name of the political party with which the elector on receiving his ballot declared it his intention to affiliate (Pres. Prim. Act, Sec. 6).

At presidential primary enter party affiliation opposite voter's name on poll list.

At August or municipal primary election held under Direct Primary Law as amended January 11, 1916, the clerk keeping the poll list shall also write thereon opposite the name of the voter the name of the political party with which the elector on receiving his ballot declared it his intention to affiliate (Direct Prim. Law, Sec. 17, as amended Jan. 11, 1916). This was not required under the Direct Primary Law before it was amended, and if the amendments do not become effective the directions in this paragraph should be disregarded.

At primary under direct primary law as amended in 1916 enter party affiliation opposite voter's name on poll list.

No voter shall deliver to any election officer any ballot other than the one he received from the election officer or other officer duly authorized by law to furnish him therewith (Pol. Code, Sec. 1215).

Elector shall not deliver to officer other ballot than that received.

No person, except an election officer, shall receive from any voter a ballot prepared by such voter, or examine the same or solicit the voter to show the same (Pol. Code, Sec. 1215), but this shall not prevent an election officer duly authorized to assist a voter from examining such ballot in the booth where the same is being prepared, nor shall it prevent the subsequent examination of all ballots after the polls are closed.

Only election officer shall receive ballot prepared by elector. No one shall examine same until polls are closed.

No officer of election shall disclose to any person the name of any candidate for whom any elector has voted, whether such voter was or was not assisted in voting by an election officer (Pol. Code, Sec. 1215).

Officer shall not disclose how elector voted.

QUALIFICATIONS OF VOTERS.

Only those persons are entitled to vote who possess the qualifications prescribed in section 1 of article II of the constitution of the State of California and come within the other provisions of that section and are registered as required by law. The section in question reads as follows:

"Every native citizen of the United States,¹ every person who shall have acquired the rights of citizenship under or by virtue of the Treaty of Queretaro,² and every naturalized citizen thereof,³ who shall have become such ninety days prior to any election, of the age of twenty-one years,⁴ and shall have been a resident⁵ of the State one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days,⁶ shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China,⁷ no

idiot, no insane person, no person convicted of any infamous crime,⁸ no person hereafter⁹ convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amendment relative to an educational qualification,¹⁰ shall not apply to any person prevented by a physical disability¹¹ from complying with its requisitions, nor to any person who now¹² has the right to vote, nor to any person who shall be sixty years of age and upwards at the time this amendment shall take effect.¹³” (This amendment took effect October 10, 1911.)

NOTE.—¹A native citizen of the United States is one born within the United States. One born within the territorial limits of the United States but of a parent who is the ambassador, minister or consul of a foreign country is not a native citizen of the United States. One born within the territorial limits of the United States, but of alien parents other than ambassadors, ministers or consuls, is a native citizen of the United States. An Indian born within the tribal relations is not a native citizen of the United States and can not vote unless naturalized. A native female citizen who marries an alien ceases to be a citizen of the United States, but becomes a citizen again upon the naturalization of her husband. Upon the death of her husband or upon divorce she may again become a citizen so as to entitle her to vote by residing in this State for the required period of time.

²Under the Treaty of Queretaro, United States citizenship was conferred on all Mexican citizens resident in the territory annexed by the United States under the provisions thereof, except those who before May 30, 1849, declared their intention to retain their Mexican citizenship.

³A naturalized citizen is one who has become such by naturalization of himself or of his parents under the laws of the United States, or, in the case of a woman, by the naturalization of her husband.

⁴The person, whether male or female, must be twenty-one years of age in order to vote; it does not depend upon whether the person has attained majority.

⁵A person is a resident of the State or of the county or precinct in which he claims his right to vote when he satisfies the conditions constituting residence as hereinafter stated under the subject of “Challenge.”

⁶A person in order to vote must have resided in the precinct, in which he claims the right to vote, at least thirty days prior to the day of election, and if he remove within such time from the precinct in which he resided to another precinct in the same county he loses his right to vote. The provision to the contrary in subdivision 4 of section 1239 of the Political Code has been held unconstitutional and shall be disregarded. If he has removed his residence from one place in a precinct to another place in the same precinct within thirty days of election it does not affect his right to vote.

⁷Neither a native of China, nor a native of any country, the citizens of which can not be naturalized, can vote, but a person born in this country whose parents were natives of China, or of any such country, the citizens of which can not be naturalized, is a native citizen of the United States and may vote if he possesses the other necessary qualifications.

⁸An infamous crime is any crime of the grade of a felony and for which the punishment is death or imprisonment in a state or federal prison.

⁹By the word “hereafter” there is included any person who was so convicted subsequent to January 1, 1890.

¹⁰Educational qualifications means the ability to read the constitution in the English language and write one's name.

¹¹Physical disability means a temporary or permanent bodily ailment or defect rendering one incapable of doing the particular act prescribed of reading or writing.

¹²The word “now” includes all persons who had the right to vote on November 6, 1894, and those who had thereafter and on or prior to October 10, 1911, acquired such right.

¹³A person who was sixty years of age and upwards October 10, 1911, may vote regardless of educational qualifications.

CHALLENGE.

A person offering to vote may be orally challenged by any elector of the county upon either or all of the following grounds:

Grounds of challenge.

(1) That he or she is not the person whose name appears on the register.

(2) That he or she has not resided within the State one year next preceding the election.

(3) That he or she has not been a naturalized citizen of the United States for ninety days prior to the election.

(4) That he or she has not resided within the county for ninety days preceding the election.

(5) That he or she has not resided within the precinct for thirty days next preceding the election.

(6) That he or she has before voted that day.

(7) That he or she has been convicted of an infamous crime.

(8) That he or she has been convicted of the embezzlement or misappropriation of public money.

(9) That he or she can not read as required by the constitution, and does not appear by statement in the affidavit of registration to be entitled to vote notwithstanding such inability (Pol. Code, Sec. 1230).

If the challenge is on the ground that the person challenged is not the person whose name appears on the register he must take the following oath which must be tendered him by the inspector:

Challenge on ground of being different person from one named on register.

“You do swear (or affirm) that you are the person whose name is entered on the Great Register” (Pol. Code, Secs. 1231 and 1237).

When the challenge is on the ground of nonresidence, before administering an oath to a person touching his place of residence, the inspector must, if requested by any person, read to the person challenged the rules prescribed by sections 1238 and 1239 of the Political Code and hereinafter stated (Pol. Code, Sec. 1241).

Challenge on ground of nonresidence. Rules for determining residence must be read, if requested.

If the challenge is upon the ground that the elector has not resided in the State for one year next preceding the election, the person challenged must be sworn to answer questions, and after he is sworn the following questions must be propounded to him by the inspector:

Challenge on ground of nonresidence in State one year.

(1) Have you resided in this State for one year immediately preceding this election?

(2) Have you been absent from this State within one year immediately preceding this election? If yes, then,

(3) When you left, did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?

(4) Did you, while absent, regard this State as your home?

(5) Did you, while absent, vote in any other state?

And such further questions as may be necessary to a determination of the challenge. (Pol. Code, Sec. 1232.)

Challenge on
ground of
nonresidence
in county or
precinct for
required
time.

If the challenge is on the ground that the elector has not resided in the county for ninety days, or precinct for thirty days next preceding the election, the person challenged must be sworn to answer questions, and after he is sworn the following questions must be propounded to him by the inspector:

(1) When did you last come into this county or election precinct?

(2) When you came into this county or precinct did you come for a temporary purpose merely, or for the purpose of making it your home?

(3) Did you come into this county or precinct for the purpose of voting here?

And such other questions as may be necessary to a determination of the challenge (Pol. Code, Sec. 1233).

Rules for
determining
residence.

The board of election, in determining the place of residence of any person, must be governed by the following rules, so far as they are applicable:

(1) That place must be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning;

(2) A person must not be held to have gained or lost residence by reason of his presence or absence from a place while employed in the service of the United States, or of this State, nor while engaged in navigation, nor while a student at any institution of learning, nor while kept in an almshouse, asylum, or prison;

(3) A person must not be considered to have lost his residence who leaves his home to go to another state, or precinct in this State, for temporary purposes merely, with the intention of returning;

(4) A person must not be considered to have gained a residence in any precinct into which he comes for temporary purposes merely, without the intention of making such precinct his home. * * * * *;

(5) If a person remove to another state with the intention of making it his residence, he loses his residence in this State;

(6) If a person remove to another state with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this State, notwithstanding he entertains an intention of returning at some future period;

(7) The place where a man's family resides must be held to be his residence; but if it be a place for temporary establishment for his family, or for transient objects, it is otherwise;

(8) If a man has a family fixed in one place, and he does business in another, the former must be considered his place of residence; but any man having a family, and who has taken up his abode with the intention of remaining, and whose family does not so reside with him, must be regarded as a resident where he has so taken up his abode;

(9) The mere intention to acquire a new residence, without the fact of removal, avails nothing, neither does the fact of removal, without the intention.

(Pol. Code, Sec. 1239.)

NOTE.—The second sentence in subdivision 4 of section 1239 of the Political Code to the effect that any person registered in one precinct and removing therefrom to another precinct in the same county within thirty days of an election, shall be deemed a resident of the precinct from which he so removed until after such election, has been held by the Supreme Court to be unconstitutional and is therefore omitted above. The election officers will therefore disregard that provision in that subdivision of the section and if the person in question has removed from the precinct in which he was registered to another precinct in the same county within thirty days of the election, he shall be denied the right to vote.

The term of residence must be computed by including the day on which the person's residence commenced and by excluding the day of the election (Pol. Code, Sec. 1240).

Term of residence; how computed.

Any election officer who has received from the county clerk or registrar of voters a certified list of persons to be challenged shall challenge any such persons offering to vote, upon the grounds applicable according to said list (Pol. Code, Sec. 1094).

Certified list of persons to be challenged

A certified copy of an uncanceled affidavit of registration is *prima facie* evidence that the person named in the entry is an elector of the county (Pol. Code, Sec. 1117).

Certificate of registration.

If the challenge is on the ground that the person challenged has before voted that day, the inspector must tender the person challenged this oath:

Challenge on ground of previous voting.

"You do swear (or affirm) that you have not before voted this day." (Pol. Code, Sec. 1234.)

If the challenge is on the ground that the person challenged has been convicted of an infamous crime, or of the embezzlement or misappropriation of public money, he must not be questioned, but the fact may be proved by the production of an authenticated copy of the record or by oral testimony of two witnesses (Pol. Code, Sec. 1235). The term "infamous crime" is hereinbefore defined in note 8 under the heading of "Qualifications of Voters."

Challenge on ground of conviction of crime.

Challenge
on ground
of want of
educational
qualifica-
tions.

If the challenge is on the ground that the person challenged can not read, as required by the constitution, and it does not appear by the statement in the affidavit of registration that he is entitled to vote notwithstanding such inability, the challenge shall be determined by the board by inspecting said affidavit, and by requiring him to read any consecutive one hundred words of the constitution of this State selected by the judges (Pol. Code, Sec. 1235).

Challenges
on grounds
of identity
of person,
or previous
voting
determined
by oath.

Challenges upon the grounds that :

(1) The person challenged is not the person whose name appears on the Great Register; or

(2) The party has before voted that day;
shall be determined in favor of the party challenged by his taking the oath tendered (Pol. Code, Sec. 1236).

Challenges
on other
grounds
determined
by board.

Challenges for causes other than those specified in the last paragraph (Sec. 1236) must be tried and determined by the board of election at the time of challenge (Pol. Code, Sec. 1237).

Person
refusing to
be sworn
to be
denied vote.

If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions touching the matter of residence, he must not be allowed to vote (Pol. Code, Sec. 1238).

Person
refusing to
be sworn
relative to
another's
right to
vote guilty
of misde-
meanor.
Grounds of
challenge
at primary
elections
held under
direct
primary law
of 1913.

Every person who, after being required by the board of judges at any election, refuses to be sworn, or, being sworn, refuses to answer any pertinent question, propounded by such board, pertinent to the right of another to vote, is guilty of a misdemeanor (Pen. Code, Sec. 43).

At any election held under the Direct Primary Law of 1913, any elector offering to vote may be challenged by any elector of the city, city and county, or county, where such election is being held, upon either or all of the grounds specified in section 1230 of the Political Code, hereinabove stated, but his right to vote the primary election ticket of the political party designated in his affidavit of registration, or his right to vote the nonpartisan primary ticket, if no such party is so designated, shall not be challenged on any ground or subject to any test other than those provided by the constitution of this State and section 1230 of the Political Code (Direct Primary Law, Secs. 16 and 17).

Grounds of
challenge
at primary
elections
held under
direct
primary law
as amended
in 1916.

At any primary election held under the Direct Primary Law as amended January 11, 1916 (if such law as so amended shall become effective on April 11, 1916), any elector offering to vote may be challenged by any elector of the city, city and county, or county, in which such election is being held, upon either or all of the grounds specified in section 1230 of the Political Code, but his right to vote the primary election ticket of the political party, with which, on receiving his ballot, he declares his intention to affiliate, shall not be challenged on any ground or subject to any tests other than those prescribed by the constitution and section 1230 of the Political Code, except on the ground of his having previously declared his

intention to affiliate with another political party at such primary election, such declaration having been expressed in the nomination paper of a candidate of such other party which he signed (Direct Primary Law, Sec. 16, as amended January 11, 1916).

NOTE.—As to whether this provision last noted shall be operative, see note hereinabove in this digest with respect to the amendments to Direct Primary Law passed in 1916.

If the act of January 11, 1916, amending the Direct Primary Law, shall become effective, at any presidential primary election held thereafter the grounds of challenge shall be those specified in the case of a primary election held under that law as so amended, except that the person offering to vote and who is otherwise qualified, shall be entitled to vote the ballot of that party with which he then declares it to be his intention to affiliate at the then ensuing November election, provided he has not previously signed the nomination paper of a candidate of another political party and declared therein his intention to affiliate with such other political party at such presidential primary election (Pres. Prim. Act, Sec. 9; Direct Prim. Law, as amended in 1916, Sec. 16).

Grounds of challenge at presidential primary election if amendments to direct primary law become effective.

If the act of January 11, 1916, amending the Direct Primary Law, does not become effective, at any presidential primary election held hereafter the grounds of challenge shall be those specified in the case of a primary election held under the Direct Primary Law of 1913, except that the person offering to vote, and who is otherwise qualified, shall be entitled to vote the ballot of that party with which he then declares it to be his intention to affiliate at the then ensuing November election (Pres. Prim. Act, Sec. 9; Direct Prim. Law of 1913, Sec. 16).

Grounds of challenge at presidential primary election if amendments to direct primary law do not become effective.

The board must cause one of the clerks to keep a list showing:

List of challenges to be kept by clerk.

- (1) The names of all persons challenged.
- (2) The grounds of such challenges.
- (3) The determination of the board upon the challenge (Pol. Code, Sec. 1243).

This list shall be signed by the members of the board after the polls are closed and returned to the county clerk or other proper official with the affidavits of registration as hereinafter stated (Pol. Code, Sec. 1264).

GENERAL PROVISIONS RELATING TO DUTIES OF ELECTION OFFICERS DURING PROGRESS OF ELECTION.

When it appears from an affidavit of registration that an elector has declared under oath, when he registered, that he can not read, or that by reason of physical disability he is unable to mark his ballot, he shall, upon request receive the assistance of two of the officers of election in the marking

Voters assisted. How.

thereof. One of such officers shall be chosen by the inspector then receiving the ballots, and the other shall be chosen by one of the judges; neither of the appointing officers being so chosen (see note immediately hereafter). The officers chosen shall thereafter give no information regarding the marking of said ballot. The appointing officers shall make the appointment in writing, and sign the same, and upon the same paper the officers appointed shall subscribe and take the following oath before assisting the elector:

“State of California, County of _____, Assembly District number _____, _____ precinct. ss.

_____ and _____, being duly sworn, each for himself, says that he is one of the officers of election appointed to assist _____ (here insert name of elector) in marking his ballot, and that he will not give any information, now or hereafter, regarding the same.

Subscribed and sworn to before me, this _____ day of _____, A. D. _____.”

This oath may be sworn to before any one of the officers of election other than those signing the oath (Pol. Code, Sec. 1208).

Appointment and oath to accompany returns.

The written appointment with the oath and endorsements thereon shall be returned to the county clerk or other officer to whom the returns are to be made as provided hereafter in the case of lists of those assisted (Pol. Code, Sec. 1208).

Two lists of assisted voters kept and returned.

Two lists of the voters who have been so assisted shall be kept and be returned and preserved as the poll lists are returned and preserved.

NOTE.—Owing to the repeal in 1915 of section 1143 of the Political Code, which provided that the Judges appointed upon an election board must not be of the same political party, the provision in section 1208 of the Political Code requiring the officers appointed to assist a voter to be of different political parties could not in many instances be complied with, and that part of the section is therefore not stated above as a requirement and shall be disregarded by the election officers.

Certificate as to death or removal of electors to accompany returns.

If at any election it is within the knowledge of the board of election in a precinct, or of any officer thereof, that a person whose name appears upon an affidavit of registration furnished for use at that precinct is dead, or has removed from that precinct, a certificate to that effect, or a certified list of such persons, if there be more than one, shall be made by such board or officer and the same shall accompany the other returns (Pol. Code, Sec. 1106, sub. 6).

Electioneering forbidden.

No officer of election, nor any person, shall solicit a vote or do any electioneering on election day within one hundred feet of any polling place, nor shall any person ask another at a polling place for whom he intends to vote (Pol. Code, Sec. 1215), or speak to a voter on the subject of marking his ticket,

within one hundred feet of the polling place, except an officer of election when required to do so by law and when properly authorized to assist a voter (Pol. Code, Sec. 1215).

No person shall during an election, remove or destroy any of the supplies or other conveniences in the booths, nor remove, tear down, or deface the cards of instructions (Pol. Code, Sec. 1214), or, unless otherwise provided by law, remove any ballot from any polling place before the closing of the polls (Pol. Code, Sec. 1215).

Supplies and ballots not to be removed or destroyed.

The ballot clerks shall account for the ballots delivered to them at the opening of the polls by returning at the closing of the polls a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled ballots returned, the number of ballots given to them, and it shall be the duty of the officers receiving such returned ballots to compel such accounting (Pol. Code, Sec. 1207).

Ballot clerks shall account for ballots delivered to them.

All provisions governing elections, except as herein noted, apply in equal force to the presidential primary election, the August primary election and to all other primary elections held under the Direct Primary Law (Pres. Prim. Act, Sec. 9; Direct Prim. Law, Sec. 32, sub. 3).

Provisions herein applicable to all primary elections except as noted.

CLOSING THE POLLS.

The polls shall be closed at seven o'clock p.m. on the day of election (Pol. Code, Sec. 1160), provided, however, that if at the hour of closing there are any voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. But no one who shall arrive at the polling place after seven o'clock p.m. on that day shall be entitled to vote, although the polls may be open when he arrives (Pol. Code, Sec. 1164).

Time of closing polls.

When the polls are closed that fact must be proclaimed aloud at the place of election; and after such proclamation no ballot shall be received (Pol. Code, Sec. 1164).

Proclamation.

All members of the board of election shall be present at the closing of the polls (Pol. Code, Sec. 1142).

All members must be present.

Immediately upon the closing of the polls, and before any ballot shall be taken from the ballot box (or from either ballot box if there be two, as in case there are also municipal tickets), the ballot clerks must, in the presence of all persons in the room who may desire to observe the same, proceed to deface every unused or spoiled ballot, by drawing across the face thereof, in writing ink, with a pen, two lines which shall cross each other, and said clerks shall thereupon immediately, and before any ballots be taken from the ballot box (or ballot boxes), place all said ballots thus defaced within an envelope and seal said envelope, and thereupon a majority of the election officers shall immediately write their names across the sealed portion of said envelope (Pol. Code, Sec. 1207).

Deface unused ballots, enclose in envelope and seal same.

CANVASSING THE VOTE.

Board shall canvass vote. At least four members shall act.

Members to relieve each other during the canvass.

General ticket to be canvassed before municipal ticket.

Canvass must be public.

How commence canvass. Count number of ballots.

Ballots folded together, when to be rejected.

Replace ballots in box, and if excess number draw such excess and destroy same.

Poll lists shall be signed by members of board.

Members of board shall sign roster and other lists.

As soon as the polls are closed and the spoiled and unused ballots have been defaced and enclosed in an envelope and the same is sealed, the board of election for a precinct shall canvass the votes cast in that precinct.

The members of said board shall relieve each other in the duties of canvassing the ballots which may be conducted by at least four members of the board; provided, that the final certificate shall be signed by a majority of the whole board (Pol. Code, Sec. 1142).

At all elections where a general ticket and a municipal ticket are used, the canvass of the general ticket shall be completed before the canvass of the municipal ticket is commenced (Pol. Code, Sec. 1257).

The canvass must be public, in the presence of the bystanders, and must be continued without adjournment until completed and the result thereof is declared (Pol. Code, Sec. 1252).

The canvass shall be commenced by taking out of the ballot box the ballots unopened (except so far as to ascertain whether each ballot is single), and counting the same to ascertain whether the number of ballots corresponds with the number of names on the lists of voters kept by the clerks.

If two or more separate ballots are found so folded together as to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed; then, if upon comparison of the count with the number of names of electors on the lists which have been kept by the clerks, it appears that the ballots thus folded together were cast by one elector, they must be rejected (Pol. Code, Sec. 1254).

The ballots having been counted, they must be immediately replaced in the ballot box (except those, if any, which were folded together and rejected as cast by one elector), and if the ballots so replaced in the box exceed in number the names on the lists, one of the judges must publicly, and without looking into the box, draw out therefrom singly, and destroy, unopened, a number of ballots equal to such excess. The board shall make a record, upon the poll list of the number of ballots so drawn and destroyed (Pol. Code, Sec. 1255).

The number of ballots agreeing, or being thus made to agree, with the number of names on the lists, that number shall thereupon be set down in words and figures in the certificate of the board at the end of each list and the members of the board shall affix their signatures to said certificate (Pol. Code, Secs. 1174 and 1256).

The members of the board shall also affix their signatures to the roster, and to the challenge list, the two lists of assisted voters, and the death and removal list if any.

After the lists are thus signed, the board must proceed to open the ballots and count and ascertain the number of votes cast for each person voted for, drawing but one ballot from the box at a time (Pol. Code, Sec. 1257).

To determine the legality or validity of any ballot, or whether the same has been properly marked for any candidate, proposition or other matter thereon, and in what manner and to what extent an improperly marked ballot shall be counted, the board shall, when canvassing the votes, be governed by the provisions hereinafter set forth under the heading "Void and Improperly Marked Ballots. How Determined and Counted."

Void and improperly marked ballots. How determined and counted.

Hereafter discussed.

There shall be kept two lists of the vote cast for each candidate, called the tally lists or tally sheets.

Two tally lists.

At any election provided for by section 1044 of the Political Code but one tally list and one copy of such tally list need be kept (Pol. Code, Sec. 1151).

These tally lists shall be kept simultaneously by at least two members of the board and there shall always be at least two members looking at the vote on the ballot while one of said two members is reading the vote therefrom to be tallied (Pol. Code, Sec. 1142).

Two members keep tally lists and two members read ballots.

Each officer keeping the tally list shall write thereon (if not already thereon) each office to be filled, and the name of each person marked in each ballot as voted for to fill such office, and keep the number of votes by tallies as they are read aloud by one of the other election officers. Such tallies must be made with pen and ink as the name of each candidate voted for is read aloud from the respective ballots (Pol. Code, Sec. 1258).

Tally lists, how kept.

The ballot so read and the tally sheet so kept must, during the reading and tallying, be within the clear view of watchers at the count (Pol. Code, Sec. 1258).

Ballots and tally lists to be in view of watchers.

The ballot, as soon as the names marked on it as voted for are read and verified, must be strung on a string by one of the election officers, and must not thereafter be examined by any person (Pol. Code, Sec. 1259).

Ballot when read and vote thereon tallied to be strung on string.

Upon all ballots rejected for illegality there must be indorsed the cause of such rejection signed by a majority of the election board and thereafter such ballots shall be strung upon a string (Pol. Code, Sec. 1257), which shall be a separate string from that upon which the unrejected ballots are strung.

Rejected ballots to be indorsed and strung.

Immediately upon the completion of the tallies the officers who respectively complete the same must draw two heavy lines in ink from the last tally mark to the end of the line in which such tallies terminate, and also write the initials of the person making the last tally in such line (Pol. Code, Sec. 1258).

Upon completing tallies officers shall initial same.

As soon as all the ballots are counted they must be carefully sealed in a strong envelope and each member of the board shall write his name across the seal (Pol. Code, Sec. 1259).

Ballots when all counted must be sealed in envelope.

Certificate
of board as
to vote.
Attached to
tally lists.

Immediately thereafter there shall be attached to the tally lists (or filled out thereon if the form used has provision therefor), lists containing the names of persons voted for and for what office, and the number of votes given for each candidate, the number being written at full length, and such lists so attached (or filled out) shall be signed by the members of the board substantially in the form in which they are required to sign the poll lists (Pol. Code, Sec. 1260).

How conduct
canvass at
primary
election
under direct
primary law
of 1913.

At any primary election held under the Direct Primary Law of 1913 (if the amendments thereto be not effective, as heretofore noted), the number of ballots agreeing or being made to agree with the number of names on the lists as heretofore stated, the board must take the ballots from the box, count those cast by each party, and string them separately; count all the votes cast for each party candidate for the several offices and record the same on the tally lists; and count all the votes on all the ballots, both party and nonpartisan, for the candidates for judicial, school, county, and township offices, and record the same on the tally lists; and the ballots of each party must be sealed and returned in separate envelopes, and the nonpartisan ballots must be sealed and returned in another separate envelope. In all other respects the canvass shall be conducted, completed and returned as herein stated with respect to elections generally (Direct Prim. Law of 1913, Sec. 21).

How conduct
canvass at
primary elec-
tion under
direct
primary law
as amended
in 1916.

At any primary election held under the Direct Primary Law as amended in 1916 (if such amendments shall become effective as heretofore noted), the board of election shall count all the votes cast for each party candidate for the several offices and record the same by parties on the tally lists; and count all the votes on all the ballots for the candidates for judicial, school, county, and township offices, and record the same on the tally lists. No vote shall be counted for any party candidate unless stamped or written in the column of that party which the voter was entitled to vote; and all votes written in such column shall be counted only as cast for the nomination of such candidate as the candidate of the party whose name appears at the head of the column. In all other respects the canvass shall be conducted, completed and returned as herein stated with respect to elections generally (Direct Prim. Law, as amended in 1916, Sec. 21).

How conduct
canvass at
presidential
primary
election.

At any presidential primary election the canvass shall be conducted, completed and returned as herein stated with respect to elections generally, except in those particulars in which as hereinbefore noted a different procedure is prescribed by the Direct Primary Law, in which case the board of election shall follow that procedure (hereinabove stated) prescribed by the provisions of the Direct Primary Law in effect at the time of such presidential primary election (Pres. Prim. Act, Sec. 9; Direct Prim. Law, Sec. 21).

VOID AND IMPROPERLY MARKED BALLOTS. HOW DETERMINED AND COUNTED.

In canvassing the vote the following provisions shall be observed by the election officers:

No unauthorized mark upon a ballot shall invalidate such ballot unless it shall appear from the ballot itself that such mark was placed thereon by the voter for the purpose of identifying such ballot (Pol. Code, Sec. 1211, sub. 4).

Ballots
when void.

Identifying
mark.

Nor shall it make the ballot void that two or more impressions of the voting stamp are in one voting square (Pol. Code, Sec. 1211, sub. 1), but in such case the ballot shall be counted for the candidate whose name is opposite such square.

When not
void. Two
impressions
of stamp.

Nor shall it make the ballot void that a cross (X) is made partly within and partly without a voting square (Pol. Code, Sec. 1211, sub. 1), or that a cross (X) is made entirely outside a voting square; but such ballot shall be counted as hereinafter stated.

Stamp partly
without
square.
Stamp
wholly with-
out square.

If a cross (X) is not stamped in the voting square opposite the name of a candidate printed on the ballot (Pol. Code, Sec. 1205), or if the cross in the voting square opposite such printed name is not made with the stamp provided for that purpose (Pol. Code, Sec. 1204), the ballot shall not be counted as a vote for such candidate, but the rest of the ballot shall be counted for those candidates for whom the ballot is properly marked.

When not
counted for
candidate.

If a cross (X) is not stamped wholly within the voting square opposite a candidate's name printed on the ballot, but is stamped partly within such square and partly without, it shall be counted as a vote for such candidate if the part without the voting square is not in another voting square, but if any part of the stamp is in two voting squares it shall be counted as a vote for that candidate in whose voting square the major part of the cross is, and if it is equally in two voting squares it shall not be counted as a vote for either candidate; but the rest of the ballot shall be counted for those candidates for whom the ballot is properly marked (Pol. Code, Sec. 1211, subs. 1 and 2).

When
counted for
candidate.

If a voter marks more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the voter's choice for any office to be filled, the ballot shall not be counted for any person for such office (Pol. Code, Sec. 1211, sub. 2), but as to all other offices the ballot shall be counted for the candidates for whom it is properly marked.

When more
persons
voted for
than
allowed.
When
impossible
to determine
voter's
choice.

Any name written upon a ballot shall be counted for such name for the office under which it is written, provided it is written in the blank space therefor, whether or not a cross (X) is stamped or made with pen or pencil, in the voting square after the name so written (Pol. Code, Sec. 1211, sub. 1).

When name
of candidate
is written
in by voter,
use of stamp
or pencil
cross
material.

When voter stamps ballot for one candidate and writes in name of another for same office.

If a voter stamps a cross (X) in the voting square after the name of any candidate and also writes the name of any person for the same office in the blank space, such act does not invalidate the ballot, but it shall not be counted for any person for that office, but as to all other offices the ballot must be counted for the candidates for whom it is properly marked (Pol. Code, Sec. 1211, sub. 3). If, however, more than one person is to be elected to the office in question, such acts by the voter shall not prevent the ballot being counted for such persons, provided the number so voted for does not exceed the number to be elected, but if it does exceed that number the ballot shall not be counted for any persons for that office, but as to all other offices it must be counted for those candidates for whom it is properly marked.

At primary election under direct primary law as amended in 1916. Votes in wrong column not counted for any candidate.

At any primary election held under the Direct Primary Law as amended in 1916 (if such amendments shall become effective as hereinbefore noted), no vote shall be counted for any party candidate unless stamped or written in the columns of that party which the voter was entitled to vote; and all votes written in such column shall be counted only as cast for the nomination of such candidate as the candidate of the party whose name appears at the head of the column.

Counting of votes on proposition and other matters.

To determine whether a ballot has been properly marked for any proposition or other matter to be voted upon, and in what manner and to what extent an improperly marked ballot shall be counted, the board shall be governed by the provisions hereinbefore set forth.

RETURNING THE VOTE.

Enclose in sealed packages register, list of voters challenged, one poll list, one assisted voters list, one tally list and list attached thereto and roster.

After canvassing the votes and before it adjourns, the board must inclose in a cover or envelope, and seal up and direct to the County Clerk or Registrar of Voters, the book of affidavits of registration, all certificates of registration received by it, the list of the persons challenged, one of the poll lists (Pol. Code, Sec. 1261), the inspector's oath, if any, (Pol. Code, Sec. 1142), one list of assisted voters (Pol. Code, Sec. 1208), and one of the tally lists and list attached thereto (Pol. Code, Sec. 1261), and the death and removal list, if any (Pol. Code, Sec. 1106, sub. 6), and must also enclose in a cover or envelope, and seal up and direct to the same officer to whom the other sealed package is directed, the roster of voters (Pol. Code, Sec. 1264a).

Deliver same to one member.

These sealed packages, together with the sealed package containing the spoiled and unused ballots (Pol. Code, Sec. 1207), and the sealed package containing the voted ballots (Pol. Code, Sec. 1259); the signatures of each member of the board being written across the seal on each package, must, before the board adjourns, be delivered to one of its members, to be determined by lot, unless otherwise agreed upon by the members of the board (Pol. Code, Sec. 1263).

The board must also, before it adjourns, post conspicuously, on the outside of the polling place, a copy of the result of the votes cast at such polling place, such copy to be signed by the members of the board (Pol. Code, Sec. 1261).

Post copy of result of vote on outside of polling place.

Another copy of the result of the votes cast at such polling place shall be made out by the board and be signed by the members and be immediately transmitted unsealed, together with the other poll list, list of assisted voters, tally list and list attached thereto, to the County Clerk or Registrar of Voters (Pol. Code, Secs. 1261 and 1262).

Transmit copy of result of vote and other poll list, tally list and list attached thereto to county clerk.

It is a misdemeanor for any person to remove or deface such posted copy of the result or to delay or change the copy to be delivered to the County Clerk (Pol. Code, Sec. 1261).

Penalty for removing posted copy or delaying return of copy.

The member to whom such sealed packages are delivered must, without delay, deliver such packages without their having been opened, to the County Clerk, Registrar of Voters, nearest postmaster, or sworn express agent, who shall endorse thereon the name of the person delivering them, and date of such delivery. If delivered to a postmaster or express agent, such postmaster or express agent shall forward the packages by the first mail or express to the county seat (Pol. Code, Sec. 1264).

Member to deliver sealed packages.

At any municipal election or municipal primary election the member, to whom such sealed packages are entrusted, shall deliver the same to the city clerk of the municipality in which such election is held; and those copies and lists, which in the case of a state or county election should be transmitted unsealed to the County Clerk or Registrar of Voters, shall be transmitted unsealed to the city clerk of such municipality.

At municipal elections packages and lists delivered to city clerk.

In the city and county of San Francisco the time of adjournment must be endorsed upon each poll list in ink and signed by a majority of the members of the board. The packages shall then be put up and sealed by an inspector and at least three other members and be signed with their respective signatures across the flap of each package and upon each package there shall be endorsed in ink the time of adjournment, signed by a majority of the members of the board. One of these packages shall contain the voted ballots only; one shall contain one poll list and one tally list only; one shall contain the precinct registers, index thereto, list of voters challenged and list of assisted voters; and one package shall contain the spoiled and unused ballots. Such packages, together with the inspector's oath, if any, shall then be delivered to one of the members of the board, to be determined by lot unless otherwise agreed upon by the members of the board, and shall be by that member delivered to the Registrar of Voters within three hours from the time of adjournment of the board (Pol. Code, Sec. 1264).

In the city and county of San Francisco, packages how sealed and delivered.

Failure to
observe form
prescribed.

No list, tally, paper, or certificate returned from any election must be set aside or rejected for want of form, nor on account of its not being strictly in accordance with the directions prescribed if it can be satisfactorily understood (Pol. Code, Sec. 1175).

ADDITIONAL PENALTIES.

Fraudulent
voting.

Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election, or knowingly hands in two or more tickets, folded together, or changes any ballot after the same has been deposited in the ballot box, or adds, or attempts to add, any ballot to those legally polled at any election, by fraudulently introducing the same into the ballot box either before or after the ballots therein have been counted; or adds to, or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll lists, or ballots, or ballot box, for the purpose of breaking up or invalidating such election, or willfully detains, mutilates, or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted, is guilty of a felony (Pen. Code, Sec. 45).

Attempting
to vote
when not
qualified.

Every person not entitled to vote, who fraudulently attempts to vote, or who, being entitled to vote, attempts to vote more than once at any election, or who personates, or attempts to personate, a person legally entitled to vote, is punishable by imprisonment in the state prison for not less than one nor more than two years (Pen. Code, Sec. 46).

Procuring
illegal
voting.

Every person who procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote, or who aids or abets in the commission of any of the offenses mentioned in the preceding section, is punishable by imprisonment in the state prison not exceeding two years (Pen. Code, Sec. 47).

Changing
ballots or
altering
returns by
election
officers,
felonies.

Every officer or clerk of election who aids in changing or destroying any poll list, or in placing any ballots in the ballot box, or taking any therefrom, or adds or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with the ballots polled any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another

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